

STIPULATION AND [PROPOSED] ORDER TO
AMEND PRETRIAL PREPARATION ORDER
Our File No. 8001.03; Case No. C-04-02255 MMC

CURRENT STATUS

The parties are advised that Mr. Maxie's medical condition is improving but that he is still participating in physical therapy. Mr. Maxie's surgeon has not opined as to a likely date by which maximum cure will be achieved.

The parties have completed the liability phase of Mr. Maxie's deposition and by stipulation are deferring the medical and damage phase until he becomes permanent and stationary. In an effort to maintain the current trial date despite the continuing uncertainty as to Mr. Maxie's prognosis, the parties propose revising the pre-trial order as follows:

JURY TRIAL DATE:	November 28, 2005 at 9:00 a.m., Courtroom 7, 19 th Floor;
NON-EXPERT DISCOVERY CUTOFF:	September 30, 2005;
LAST DAY FOR FILING DISPOSITIVE MOTIONS:	September 2, 2005;
EXPERT DISCLOSURE AND REPORTS	October 14, 2005;
EXPERT DISCOVERY CUTOFF:	October 28, 2005;
SETTLEMENT CONFERENCE:	Private mediation or settlement conference conducted by Magistrate Judge James Larson to be completed by October 3, 2005;
PRETRIAL CONFERENCE:	November 15, 2005 at 3:00 p.m.;
MEET AND CONFER:	Lead trial counsel shall meet and confer no later than October 14, 2005.

Should Mr. Maxie's recovery be further delayed, the parties will immediately advise the Court and propose appropriate revisions to the current pretrial and trial dates.

Respectfully Submitted,

Dated: August 9, 2005

BANNING MICKLOW BULL & LOPEZ LLP

By: S/ EDWARD BULL
Edward Bull
Attorneys for Plaintiff
DANIEL MAXIE

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1 Dated: August 9, 2005

LAW OFFICES OF HARVEY I. WITTENBERG

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3 By: S/ HARVEY J. WITTENBERG

4 Harvey I. Wittenberg
Attorneys for Defendant
HORIZON LINES, LLC

5 Dated: August 9, 2005

FLYNN DELICH & WISE

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7 By: S/ JAMES B. NEBEL

8 James B. Nebel
Attorneys for Defendant
U.S. SHIP MANAGEMENT, INC.

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10 Dated: August 9, 2005

GIBSON ROBB & LINDH LLP

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12 By: S/ PETER A. LINDH

13 Peter A. Lindh
Attorneys for Defendant
MATSON NAVIGATION COMPANY

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15 IT IS SO ORDERED

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18 DATED: August 10, 2005



UNITED STATES DISTRICT JUDGE
MAXINE M. CHESNEY